

WRITTEN TESTIMONY OF FERN ETTINGER, CO-CHAIR OF STATE PUBLIC AFFAIRS  
COMMITTEE OF THE NATIONAL COUNCIL OF JEWISH WOMEN, GREATER DETROIT  
SECTION

MICHIGAN STATE HOUSE JUDICIARY COMMITTEE  
REPRESENTATIVE MARK MEADOWS, CHAIRMAN

DECEMBER 14<sup>TH</sup> 2009

---

Representative Meadows and members of the judiciary committee, thank you for your time and for addressing the critical issue of public defense. Thank you for the opportunity to provide this testimony.

My name is Fern Ettinger. I am testifying on behalf of the National Council of Jewish Women, Greater Detroit Section's State Public Affairs Co-chairs Florence Herrmann, Sharon Lipton and myself. The National Council of Jewish Women (NCJW) is a grassroots organization of volunteers and advocates who turn progressive ideals into action. Inspired by Jewish values, NCJW strives for social justice by improving the quality of life for women, children, families and by safeguarding individual rights and freedoms. NCJW embraces women of diverse backgrounds and temperaments, thinkers and doers who want to play a part at the local, national and even global level.

The National Council of Jewish Women believes that individual liberties and rights guaranteed by the Constitution are keystones of a free and pluralistic society and must be protected and preserved. Time and time again, Michigan's public defense delivery system had been cited as one of America's worst. In our Jewish tradition we believe in the value of Tikkun Olam, repairing the world. The National Council of Jewish Woman recognizes the need and the urgency to repair this failing system. As members of the Campaign for Justice coalition, we believe that Michigan needs a system with adequate state funding that meets and enforces minimum national standards.

*"If you do not help a person with trouble, it is as though you have brought trouble to him."*  
- Rabbi Nachman of Bratslav

**The right to counsel:**

In the landmark case *Gideon v. Wainwright* (1963), the United States Supreme Court established the right to effective defense counsel for all people accused of a crime, regardless of whether the person accused can afford an attorney. But in a yearlong study of a representative cross-section of Michigan counties, The National Legal Aid and Defender Association (NLADA) found that the state of Michigan fails to provide competent representation to those who cannot afford counsel in its criminal courts.<sup>1</sup> Of the ten counties sampled, NLADA found that none of

---

<sup>1</sup> A Race to the Bottom: Speed & Savings Over Due Process: A Constitutional Crisis, June 2008.

the varied public defense delivery systems are “constitutionally adequate” and all fail to uphold the Ten Principles of a Public Defense Delivery System established by the American Bar Association.

The American Bar Association calls for “effective and efficient, high quality, ethical, conflict-free representation to accused persons who cannot afford to hire an attorney.”<sup>2</sup> But in Michigan, the kind of justice you receive is determined by your income or how much revenue your county brings in per year. Despite the constitutional imperative, our system is essentially saying it is okay to deny justice to some people just because they can’t afford to hire an attorney.

Instead of delivering high-quality defense, our system has become a system that values efficiency and high conviction rates over justice. Among other failures, the NLADA experts found that Michigan counties fail to manage and supervise public defense attorney caseloads, fail to provide attorneys with sufficient time and confidential space to meet with clients and fail to enforce experience and training requirements based on the complexity of cases. These failures have created a system that compromises the health of families, and public safety. Our broken defense system makes even the most competent lawyers ineffective. No attorney can effectively represent their clients if they have no time or resources to devote to the case.

### **Wrongful convictions and public safety:**

Michigan’s failing public defense delivery system not only compromises the rights of indigent defendants, it compromises our public safety. From the wrongful convictions based on DNA exonerations, local governments have had to pay out millions of dollars in lawsuit settlements and the state has wasted hundreds of thousands of taxpayer dollars by incarcerating innocent people for decades.

An example of the incredible costs of our broken system is the story of Eddie Joe Lloyd. In 1985, Eddie Joe Lloyd was convicted in Detroit of the rape and murder of a young girl and spent the *next 17 years in prison for a crime he didn’t commit. For failing to provide adequate defense in the first place, Wayne County cost its tax payers \$4 million in a settlement agreement and more than 20 years since the murder, the real perpetrator remains unknown. For each person that is locked up for a crime that she or he did not commit, the real perpetrator may still be free on the streets to commit additional crimes.*

We cannot afford to not fix our failing system.

### **Conclusion:**

The Jewish tradition reminds us that the world rests on three things: justice, truth and peace. The Constitution calls for a justice system that promotes the truth a justice system that works for all, not just those amongst us who have the resources to pay for effective council. The National Council of Jewish Women is proud to be a member of a coalition seeking a justice system that

---

<sup>2</sup> Adopted by the State Bar of Michigan Representative Assembly, April 2002.

meets the Eleven Principles of a Public Defense Delivery System. Thank you for the opportunity to submit this testimony.

*"On three things does the world endure: justice, truth, and peace..." – Pirkei Avot 1:18a*

**Contact information:**

Fern Ettinger  
National Council of Jewish Women, Greater Detroit Section  
26400 Lahser Road, Suite 306  
Southfield, MI 48033  
Phone: (248) 355-3300 ext. 0  
Fax: (248) 355-9951  
Website: [www.ncjwgds.org](http://www.ncjwgds.org)

